

Internal Revenue Service

Department of the Treasury

Number: **INFO 2003-0182**

Release Date: 9/30/2003

Index No. 475.00-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:FIP:B03 / CAM-136370-03

Date:

July 7, 2003

Dear _____ :

As discussed during a telephone conversation on _____ between your authorized representative, _____, and _____ of this office, we will treat your Form 3115 signed on _____ as a request for general information regarding making an election under § 475 (f) of the Internal Revenue Code (the Code) to use the mark-to-market method of accounting. _____ informed _____ that a statement making an election under § 475(f) had been attached to _____ Federal income tax return, and that the return had been filed no later than _____.

Section 5.03(1) of Rev. Proc. 99-17 provides General Procedures for a taxpayer making an election under § 475(f) of the Code for a taxable year beginning on or after January 1, 1999. Included in this section is the requirement that a statement (described in § 5.04) must be filed no later than the due date (without regard to extensions) of the original federal income tax return for the taxable year immediately preceding the election year and must be attached either to that return, or if applicable, to a request for an extension of time to file that return.

Section 5.04 of Rev. Proc. 99-17 states that the statement referred to in § 5.03(1) must describe the election being made, the first taxable year for which the election is effective, and in the case of an election under § 475(f) of the Code, the trade or business for which the election is made. Moreover, § 6.02(2) of Rev. Proc. 99-17 (*superseded in part by* Rev. Proc. 99-49, 1999-2 C.B. 725, *superseded by* Rev. Proc. 2002-9, 2002-1 C.B. 327) states that the original Form 3115 must be attached to the taxpayer's timely filed (including any extensions) original federal income tax return for the year of change.

Section 4 of Rev. Proc. 99-17 states that if a taxpayer described in § 3 (Scope) makes an election under § 5, and the taxpayer's method of accounting for its taxable

year immediately preceding the election year is inconsistent with § 475 of the Code, the taxpayer is required to change its method of accounting to comply with its election.

The filing of the statement required by §§ 5.03(1) and 5.04 of Rev. Proc. 99-17 is the operative procedure for properly making an election under § 475(f) of the Code; the filing of Form 3115 is an administrative requirement to implement the election. When you attach the Form 3115 to your 2003 income tax return, please be sure to follow the procedures outlined in Rev. Proc. 99-17.

We have requested that your \$500 user fee be refunded to you. User fee refunds are done under separate cover by the User Fee Unit. Accordingly, we will close our case file at this time. All correspondence and exhibits will remain the property of the Service. If you have any questions about this letter please call the undersigned or

Sincerely yours,
Alice M. Bennett
Chief, Branch 3
Office of Associate
Chief Counsel
(Financial Institutions and
Products)

By _____
Robert B. Williams,
Senior Counsel

Enclosures:
Copy of this letter